

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

THE UNITED STATES OF AMERICA

V.

ALBERT LYNN BARCROFT, et al.

§  
§  
§  
§  
§

CASE NO. 4:07cv100

**MEMORANDUM ADOPTING REPORT AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On August 22, 2008, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Rolland Alvin Barney's Motion to Dismiss (Dkt. 173) be DENIED.

The Court, having made a *de novo* review of the objections raised by Rolland Alvin Barney (Dkt. 250) and the Magistrate Judge's October 14, 2008 Order regarding the October 8, 2008 Hearing (Dkt. 287), is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court, and Rolland Alvin Barney's Motion to Dismiss (Dkt. 173) is DENIED. The parties shall proceed in accordance with Federal Rule of Civil Procedure 12(a).

**IT IS SO ORDERED.**

**SIGNED this 16th day of October, 2008.**

  
\_\_\_\_\_  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE